

DISTRICT OF COLUMBIA RENTAL HOUSING COMMISSION

RH-TP-09-29,715

In re: 4941 North Capitol Street, N.E., Unit 21

Ward Five (5)

GELMAN MANAGEMENT COMPANY
Housing Provider/Appellant

v.

DEBRA CAMPBELL
Tenant/Appellee

ORDER ON MOTION FOR ATTORNEYS' FEES

April 22, 2015

SZEGEDY-MASZAK, CHAIRMAN. This case is on appeal to the Rental Housing Commission (Commission) from a Final Order issued by the Office of Administrative Hearings (OAH),¹ based on a petition filed in the Rental Accommodations Division (RAD) of the District of Columbia Department of Housing and Community Development (DHCD). The applicable provisions of the Rental Housing Act of 1985 (Act), D.C. LAW 6-10, D.C. OFFICIAL CODE §§ 42-3501.01-3509.07 (2001), the District of Columbia Administrative Procedure Act (DCAPA), D.C. OFFICIAL CODE §§ 2-501 - 510 (2001 Supp. 2008), and the District of Columbia Municipal Regulations (DCMR), 1 DCMR §§ 2800-2899 (2004), 1 DCMR §§ 2920-2941, 14 DCMR §§ 3800-4399 govern these proceedings.

¹ The Office of Administrative Hearings (OAH) assumed jurisdiction over the conduct of hearings on tenant petitions from the RACD and the Rent Administrator pursuant to the OAH Establishment Act, D.C. OFFICIAL CODE §2-1831.01, - 1831.03(b-1)(1) (2001 Supp. 2005). The functions and duties of the RACD were transferred to the Rental Accommodations Division (RAD) of the Department of Housing and Community Development (DHCD) by the Fiscal Year Budget Support Act of 2007, D.C. Law 17-20, 54 DCR 7052 (September 18, 2007) (codified at D.C. OFFICIAL CODE § 42-3502.03a (2001 Supp. 2008)).

I. PROCEDURAL HISTORY²

On September 16, 2009, Tenant/Appellee Debra Campbell (Tenant), residing at 4941 North Capitol Street, N.E., Unit 21, Washington, D.C. 20011 (Housing Accommodation), filed Tenant Petition RH-TP-09-29,715 (Tenant Petition) against Housing Provider/Appellant Gelman Management Company (Housing Provider). *See* Tenant Petition at 1-2; Record for RH-TP-09-29,715 (R.) at 10-11. On December 15, 2010, the ALJ issued a final order, Campbell v. Gelman Management Company, RH-TP-09-29,715 (OAH Dec. 15, 2010) (Final Order).

On January 5, 2011, the Housing Provider filed a Notice of Appeal (“First Notice of Appeal”) with the Commission, and the Commission issued its Initial Decision and Order on December 23, 2013, dismissing the Housing Provider’s issues on appeal. *See* Initial Decision and Order at 16-25. Additionally, the Commission remanded the case to OAH based on the under the doctrine of “plain error.” *See id.* at 25-30.

On September 22, 2014, the ALJ issued a Final Order After Remand, Campbell v. Gelman Management Company, RH-TP-09-29,715 (OAH Sept. 22, 2014) (Final Order After Remand). On October 2, 2014, the Housing Provider filed a notice of appeal with the Commission (Second Notice of Appeal). The Commission held its hearing on February 19, 2015, and issued its Second Decision and Order on March 11, 2015. In the Second Decision and Order, the Commission dismissed the Second Notice of Appeal in part, and affirmed the ALJ in part. *Id.* at 10-14. On March 30, 2015, the Housing Provider filed a timely Motion for Reconsideration of the Second Decision and Order. On the same date that the Motion for

² The Commission notes that a complete procedural history of this case prior to the Housing Provider’s Motion for Reconsideration can be found in the Commission’s previous decisions in this case, Gelman Management Company v. Campbell, RH-TP-09-29,715 (RHC Dec. 23, 2013) (Initial Decision and Order), and Gelman Management Company v. Campbell, RH-TP-09-29,715 (RHC Mar. 11, 2015) (Second Decision and Order).

Reconsideration was filed, March 30, 2015, the Tenant filed “Appellee’s Motion for Attorney’s Fees” (Motion for Attorney’s Fees), requesting fees for work performed related to the Housing Provider’s Second Notice of Appeal. The Housing Provider filed an Opposition to the Motion for Attorney’s Fees (Housing Provider’s Opposition) on April 6, 2015, conceding that it did not consider the amount of the fees requested by the Tenant to be unreasonable. Housing Provider’s Opposition at 2. On April 21, 2015, the Tenant filed “Tenant/Appellee’s Response to Housing Provider/Appellant’s Response to Tenant/Appellee’s Motion for Attorneys’ Fees” (Tenant’s Response to Housing Provider’s Response).³

II. PRELIMINARY ISSUES

The Commission observes that the Housing Provider’s Opposition raised two (2) issues that the Commission will address preliminarily. First, the Housing Provider asserts that the Motion for Attorney’s Fees is premature where the Commission has not ruled on the Motion for Reconsideration, and thus the Second Decision and Order is not final. Housing Provider’s Opposition at 1. The Commission notes that an order denying the Motion for Reconsideration was issued on the same date as this Order, April 22, 2015, and thus the Housing Provider’s contention is moot. Gelman Mgmt. Co. v. Campbell, RH-TP-09-29,715 (RHC Apr. 22, 2015).

³ The Commission’s regulations governing motions practice provide that where a motion is filed, a party may file an opposition in response to such a motion. 14 DCMR § 3814.3 (2004) (“any party may file a response in opposition to a motion within five (5) days after service of the motion.”). The Commission’s regulations do not provide for the filing of a response to an opposition, such as the Tenant’s Response to Housing Provider’s Response, and therefore, in the reasonable exercise of its discretion, the Commission will not consider the filing in its disposition to the Motion for Attorney’s Fees. See Prime v. D.C. Dep’t of Pub. Works, 955 A.2d 178 (D.C. 2008) (quoting Ammerman v. D.C. Rental Accommodations Comm’n, 375 A.2d 1060, 1063 (D.C. 1977)) (explaining that administrative tribunals such as the Commission “must be, and are, given discretion in the procedural decisions made in carrying out their statutory mandate.”); see also Smith Prop. Holdings Five (D.C.) L.P. v. Morris, RH-TP-06-28,794 (RHC May 22, 2014); KMG Mgmt., LLC v. Richardson, RH-TP-12-30,230 (RHC Jan. 28, 2014); cf. 14 DCMR § 3802.9 (2004) (“There shall be no reply to a responsive brief and the Commission shall not accept the brief if submitted”).

Second, the Housing Provider asserts that the Motion for Attorney's Fees contains a request for a fee award that is prohibited, i.e., an award of fees for the work of law students. Housing Provider's Opposition at 1. The Housing Provider asserts that the District of Columbia Court of Appeals (DCCA) has established that the "charging or collection of fees for the services of law students" is prohibited. *Id.* (quoting D.C. App. R. 48(b)(5)).⁴

The Commission observes that the quotation of D.C. App. R. 48(b)(5) that appears in the Housing Provider's Opposition omits a critical portion of the rule. The rule in its entirety provides as follows:

(b) Requirements and Limitations. -- To be eligible to engage in the practice of law pursuant to this Rule, the law student must: . . . (5) Neither ask for nor receive a fee of any kind for any services provided under this rule from any client. Payment of a student research stipend or other law school based support, or a similar grant to a law student or a recent graduate who continues to work on clinic cases after the completion of the clinical course shall not make that student ineligible to practice under this rule. Nothing in this rule shall prevent a law school clinic from receiving court-ordered or statutory fees or court-ordered sanctions related to a case or legal matter.

D.C. App. R. 48(b)(5) (emphasis added). Moreover, the DCCA has upheld an award of attorney's fees based on work performed by law students. *See Copeland v. D.C. Dep't of Emp't Servs.*, 3 A.3d 331, 334-36 (D.C. 2010). Accordingly, the Commission is satisfied that D.C. App. R. 48(b)(5) permits an award of fees for work performed by law students participating in a law school clinic program, as occurred in this case. *Copeland*, 3 A.3d at 334-36; *see also, e.g., Caesar Arms, LLC v. Lizama*, RH-TP-07-29,063 (RHC Feb. 28, 2014); *Kuratu v. Ahmed, Inc.*, RH-TP-07-28,895 (RHC May 10, 2013); *Ahmed, Inc. v. Avila*, RH-TP-28,799 (RHC Jan. 29, 2013).

⁴ The Commission notes, based on the language contained in the quotation in the Housing Provider's Opposition, that the Housing Provider has mis-cited the applicable rule as D.C. App. R. 48(b)(6); instead, the Commission determines that the quotation comes from D.C. App. R. 48(b)(5).

III. DISCUSSION OF THE MOTION FOR ATTORNEY'S FEES

Under D.C. OFFICIAL CODE § 42-3509.02 (2001),⁵ the Commission may award reasonable attorney's fees to the prevailing party in an action before the Commission. D.C. OFFICIAL CODE § 42-3509.02. This provision creates a presumptive award of attorney's fees for prevailing tenants in both tenant-initiated and landlord-initiated proceedings. *See, e.g., Loney v. D.C. Rental Hous. Comm'n*, 11 A.3d 753, 759 (D.C. 2010); *Lenkin Co. Mgmt. v. D.C. Rental Hous. Comm'n*, 677 A.2d 46, 47 (D.C. 1996); *Hampton Courts Tenants' Ass'n v. D.C. Rental Hous. Comm'n*, 573 A.2d 10 (D.C. 1990); *Cascade Park Apartments v. Walker*, TP 26,197 (RHC Mar. 18, 2005). The Commission is satisfied, based on the procedural history discussed *supra* at 2-3, that the Tenant prevailed with regard to the Second Notice of Appeal for purposes of D.C. OFFICIAL CODE § 42-3509.02, and is therefore entitled to an award of attorneys' fees. *See Loney*, 11 A.3d at 759; *Lenkin Co. Mgmt.*, 677 A.2d at 47; *Hampton Courts Tenants' Ass'n*, 573 A.2d at 10; *Cascade Park Apartments*, TP 26,197.

Under the Commission's regulations, any fee-setting inquiry starts with the "lodestar," which is the number of hours reasonably expended on a task multiplied by a reasonable hourly rate. 14 DCMR § 3825.8(a);⁶ *see Sindram v. Tenacity Grp.*, RH-TP-07-29,094 (RHC Sept. 14, 2011); *Cascade Park Apartments*, TP 26,197; *Reid v. Sinclair*, TP 11,334 (RHC Nov. 9, 1999). The determination of the amount of reasonable attorney's fees is committed to the discretion of the Commission. *See Cascade Park Apartments*, TP 26,197; *Dey v. L.J. Dev., Inc.*, TP 26,119

⁵ D.C. OFFICIAL CODE § 42-3509.02 provides as follows: "[t]he Rent Administrator, Rental Housing Commission, or a court of competent jurisdiction may award reasonable attorney's fees to the prevailing party in any action under this chapter, except actions for eviction authorized under § 42-3505.01."

⁶ The regulation states as follows: "[t]he starting point shall be the lodestar, which is the number of hours reasonably expended on a task multiplied by a reasonable hourly rate." 14 DCMR § 3825.8(a).

(RHC Nov. 17, 2003); Town Ctr. Mgmt. Corp. v. Pettaway, TP 23,538 (RHC Feb. 29, 1996) (citing Alexander v. D.C. Rental Hous. Comm'n, 542 A.2d 359, 361 (D.C. 1988)).

A. Reasonable Hours Expended

To satisfy the first element of the lodestar calculation, that the hours claimed were reasonably expended on a case, a fee applicant must submit “sufficiently detailed information about the hours logged and the work done.” See Hampton Courts Tenants’ Ass’n v. D.C. Rental Hous. Comm’n, 599 A.2d 1113, 1116 (D.C. 1991); see also Am. Petroleum Inst. v. EPA, 72 F.3d 907, 915 (D.C. Cir. 1996); Nat’l Ass’n of Concerned Veterans v. Sec’y of Def., 675 F.2d 1319, 1327 (D.C. Cir. 1982); Copeland v. Marshall, 641 F.2d 880, 891 (D.C. Cir. 1980). Commission decisions have held that a “reasonable” number of hours is a function of a number of factors, such as: (1) whether the time records are contemporaneous, complete and standardized rather than broad summaries of work done and hours logged; (2) whether an attorney skilled in the specialized field of rental housing would have logged the same number of hours for similar work; and (3) whether the hours appear excessive, redundant or otherwise unnecessary. See Hampton Courts Tenants’ Ass’n, 599 A.2d at 16-17; Town Ctr. Mgmt. Corp., TP 23,538; Hampton Courts Tenants’ Ass’n v. William C. Smith, Co., CI 20,176 (RHC July 20, 1990).

The Tenant’s Motion for Attorney’s Fees requested attorney’s fees for 18.71 hours of work by Student Attorney Caitlin Russi and 6 hours of work performed by Supervising Attorney Edward Allen.⁷ Motion for Attorney’s Fees at 13-14.

1. Hours Requested By Student Attorney Caitlin Russi

⁷ The Motion for Attorney’s Fees states that Student Attorney Nina Naval spent 59.65 hours on this case, but that the Tenant is not requesting fees for Ms. Naval’s time because Ms. Naval was not available to execute her affidavit. Motion for Attorney’s Fees at 13.

The Tenant's Motion for Attorneys' Fees indicates that Caitlin Russi was a law student at the University of the District of Columbia David A. Clark School of Law (UDC School of Law), and was enrolled in the Housing and Consumer Law Clinic from August 25, 2014 through February 19, 2015. *See* Russi Affidavit at 1. Ms. Russi's Affidavit, attached to the Motion for Attorney's Fees, indicates that she began working on this case on October 14, 2014, and her responsibilities included researching and writing the appellate brief, and preparing for and presenting arguments before the Commission. *See id.* Ms. Russi's Affidavit contains approximately two (2) pages of contemporaneous time entries detailing the work that she performed in relation to the Tenant's case before the Commission. *See id.* at 2-3. Where more than one task was performed on a particular date, Ms. Russi has indicated how much time was spent on each individual task. *See id.*

Ms. Russi's Affidavit states that she logged a total of 56.7 hours; however, Supervising Attorney Edward Allen substantially discounted the total number of hours for which Ms. Russi is seeking fees by approximately 66.6% to 18.71 hours. *See* Motion for Attorney's Fees at 13; Russi Affidavit at 3. The Motion for Attorney's Fees indicates that the purpose of the 66.6% reduction in Ms. Russi's hours was due to a lack of sufficient detail and specificity in Ms. Russi's affidavit, and to reflect the fact that a practicing attorney would likely have spent fewer hours performing the same tasks than Ms. Russi, a law student. Motion for Attorney's Fees at 13.

The Commission is satisfied that the reduction in the hours billed by Ms. Russi reasonably accounts for any excessiveness, redundancy, or any lack of professional experience contributing to the time spent by Ms. Russi in her work on this appeal when compared to time that would be reasonably logged for similar appellate work on behalf of clients by attorneys

skilled in the specialized field of rental housing. *See, e.g.* Kuratu, RH-TP-07-28,985; Avila, RH-TP-28,799; Cascade Park Apartments, TP 26,197; *see also* Hampton Courts Tenants' Ass'n, 599 A.2d at 16-17; Town Ctr. Mgmt. Corp., TP 23,538; Hampton Courts Tenants' Ass'n, CI 20,176. Accordingly, based on its review of the record, the Commission is satisfied that substantial evidence supports that the 18.71 billable hours requested by Ms. Russi are reasonable. *See* Hampton Courts Tenants' Ass'n, 599 A.2d at 16-17; Town Ctr. Mgmt. Corp., TP 23,538; Hampton Courts Tenants' Ass'n, CI 20,176.

2. Hours Requested By Supervising Attorney Edward Allen

The Affidavit of Edward Allen indicates that he graduated from Georgetown Law Center in 1975 and was admitted to the District of Columbia Bar in the same year. *See* Allen Affidavit at 1. Mr. Allen states that he has worked as a full time faculty member at the UDC School of Law since 1977. *Id.* Mr. Allen's Affidavit provides that he has supervised law students or represented tenants "in scores of cases at the various rent control agencies" including RACD, RAD, OAH, the Commission and the DCCA. *See id.* at 2. Mr. Allen also states that he published an article related to administrative litigation, presented at D.C. Bar seminars on the topic of rent control law, and taught seminars for the D.C. Bar Committee on Rental Housing. *See id.* Mr. Allen's Affidavit indicates that he began logging time for this case on October 14, 2014, and that his responsibilities included providing guidance and oversight to student attorneys. *See id.* at 3. Mr. Allen's Affidavit contains contemporaneous time entries detailing the work that he performed in relation to the Tenant's case before the Commission, for a total of 12 hours. *See id.*

The Commission observes that a number of the time entries in Mr. Allen's Affidavit are substantially similar to those of Ms. Russi, so that Mr. Allen's "distinct contribution" to the

representation of the Tenant is not always clearly reflected in the record. *Compare* Allen Affidavit, *with* Russi Affidavit; *see also, e.g., Fred A. Smith Mgmt. Co. v. Cerpe*, 957 A.2d 907, 920 (D.C. 2008).⁸ However, the record reflects that Mr. Allen reduced the number of hours that he has requested as supervising attorney in the representation of the Tenant by 50% from 12 hours to 6 hours. Motion for Attorney's Fees at 14; Allen Affidavit at 4.

Additionally, the Commission observes that supervision of an attorney licensed to practice in the District is required by the regulation that allows law students to appear before the Commission. 14 DCMR § 3812.4(c).⁹ By regulation, therefore, when law students appear before the Commission, multiple counsel will be involved in the representation of clients under the Act: student attorney(s) and supervisor(s). *See* Motion for Attorney's Fees at 14; *see also Kuratu*, RH-TP-07-28,985; *Avila*, RH-TP-28,799; *Cascade Park Apartments*, TP 26,197.

Based upon its review of the substantial evidence in the record, the Commission is satisfied that the reduction in hours logged by Mr. Allen sufficiently accounts and compensates for any duplication, excessiveness and redundancy in his provision of legal services to the Tenant as the supervising attorney for Ms. Russi. *See, e.g. Kuratu*, RH-TP-07-28,985; *Avila*, RH-TP-28,799; *Cascade Park Apartments*, TP 26,197. For the reasons stated herein, the Commission determines for purposes of the lodestar calculation under 14 DCMR § 3825(a), that

⁸ For example, Mr. Allen's Affidavit indicates that he spent 0.3 hours meeting with Ms. Rossi on October 14, 2014 to discuss filing an answer to the Second Notice of Appeal, while Ms. Rossi's Affidavit indicates that she spent 0.3 hours on October 14, 2014 meeting with Mr. Allen to review discuss filing an answer with the Commission. *See* Allen Affidavit at 3; Russi Affidavit at 2.

⁹ 14 DCMR § 3812.4(c) provides as follows:

Any law student practicing under the supervision of an attorney admitted to practice in the District of Columbia as part of a program approved by an accredited law school for credit; provided, that the law student's representation before the Commission is undertaken pursuant to the student's participation in the clinical program; provided further, that the law student's supervising attorney is present at any hearing before the Commission.

the number of hours reasonably expended for the representation of the Tenant by Caitlin Russi is 18.71 hours, and by Edward Allen is 6 hours.

B. Reasonable Hourly Rate

The second element of the lodestar calculation requires the Commission to determine a reasonable hourly rate “as measured by prevailing market rates in the relevant community for attorneys of similar experience and skill.” 14 DCMR § 3825.8(a); *see Hampton Courts Tenants Ass’n*, 599 A.2d at 1115 n.7; *Dey*, TP 26,119; *Reid*, TP 11,334; *Hampton Courts Tenants’ Ass’n*, CI 20,176.

The Tenant requested a rate of \$95 per hour for work done by student attorney Caitlin Russi. Motion for Attorney’s Fees at 14. The Tenant asserted that \$95 per hour was a reasonable request in light of the fact it is “\$84 lower than the Laffey Matrix recommended per hour rate of \$179.00 for law clerks and paralegals in 2014-15.” Motion for Attorney’s Fees at 15; *see, e.g. A.S. v. District of Columbia*, 842 F. Supp. 2d 40, 48 n.7 (D.D.C. 2012) (the current Laffey Matrix can be found at <http://www.justice.gov/usao/dc/divisions/civil.html>).¹⁰ Moreover, the Tenant noted that an ALJ recently awarded student attorneys \$95 per hour in *Lizama v. Caesar Arms, LLC*, RH-TP-07-29,063 (OAH Apr. 13, 2010) and that the Commission recently

¹⁰ The Laffey Matrix begins with rates from 1981–1982 allowed and established by the U.S. District Court for the District of Columbia in the case of *Laffey v. Northwest Airlines*, 572 F. Supp. 354 (D.D.C. 1983), *aff’d in part, rev’d in part on other grounds*, 746 F.2d 4 (D.C. Cir. 1984), *cert. denied*, 472 U.S. 1021 (1985). It is a matrix form comprised of hourly rates for attorneys of varying experience levels and paralegals/law clerks, which has been compiled by the Civil Division of the United States Attorney’s Office for the District of Columbia. It has been used since then by courts in the District to reflect billing rates for attorneys in the Washington, D.C. area with various degrees of experience. *See, e.g., Heller v. District of Columbia*, 832 F. Supp. 2d 32, 40 (D.D.C. 2011). The Laffey Matrix is intended to be used in cases where a fee shifting statute permits a prevailing party to recover “reasonable” attorney’s fees. In that regard, it is similar to Title VII of the 1964 Civil Rights Act, 42 U.S.C. § 2000e-5(k), the Freedom of Information Act, 5 U.S.C. § 552(a)(4)(E) and the EAJA, 28 U.S.C. § 2412(b). Rates for subsequent years after 1981-1982 are adjusted annually based on cost of living increases for the Washington, D.C. area. The Commission has used the Laffey Matrix as a supplement to the “prevailing market rates in the relevant community” to gauge whether the requested fees are reasonable. *See, e.g. Kuratu*, RH-TP-07-28,985; *Avila*, RH-TP-28,799; *Loney v. Tenants of 710 Jefferson Street, N.W.*, SR 20,089 (RHC June 6, 2012); *Cascade Park Apartments*, TP 26,197.

awarded student attorneys \$95 per hour in Avila, RH-TP-28-799, under substantially similar circumstances related to client representation. *See* Motion for Attorney's Fees at 14-15 (citing Avila, RH-TP-28-799; Lizama, RH-TP-07-29,063 (OAH Apr. 13, 2010)). For the foregoing reasons, the Commission is satisfied in the exercise of its reasonable discretion that the billing rate of \$95 per hour is a reasonable rate in this case for a student attorney practicing in the field of rental housing. *See* Hampton Courts Tenants' Ass'n, 599 A.2d at 16-17; Town Ctr. Mgmt. Corp., TP 23,538; Hampton Courts Tenants' Ass'n, CI 20,176; *see also* Kuratu, RH-TP-07-28,985; Avila, RH-TP-28,799; Cascade Park Apartments, TP 26,197.

The Tenant requested an hourly rate of \$345 for the work of Supervising Attorney Edward Allen. *See* Motion for Attorney's Fees at 16. In support of this request, Mr. Allen submitted an Affidavit in which he stated that he has more than four (4) decades of experience supervising law students in landlord and tenant matters before the courts, the Commission, RACD, RAD, and OAH. *See* Allen Affidavit at 2. In further support, the Motion for Attorney's Fees stated that the Commission recently awarded Mr. Allen \$345 per hour in Avila, RH-TP-28-799, under substantially similar circumstances related to client representation. *See* Motion for Attorney's Fees at 16 (citing Avila, RH-TP-28,799).

In addition to the information contained in the Motion for Attorney's Fees and Mr. Allen's Affidavit, and based on its review of the record, the Commission notes that the requested rate of \$345 is more than 33% below the Laffey Matrix rate of \$520 per hour for an attorney with twenty or more years of experience. *See, e.g. A.S. v. District of Columbia*, 842 F. Supp. 2d 40, 48 n.7 (D.D.C. 2012).¹¹ The Commission observes that its reference to the Laffey Matrix as an appropriate rate standard is consistent with Commission precedent that "[a] reasonable hourly

¹¹ *See supra* at p. 9 n.10.

rate is 'that prevailing in the community for similar work', where the community are practitioners in the specialized field of rental housing or rent control under the Act." See Loney, SR 20,089; Hampton Courts Tenant Ass'n, 599 A.2d at 1116; Hampton Courts Tenants' Ass'n, CI 20,176 at 12; Reid, TP 11,334 at 18. For the foregoing reasons, the Commission is satisfied in its discretion that \$345 is a reasonable rate in this case, especially for an attorney with Mr. Allen's experience in the specialized field of rental housing.

For the reasons stated *supra*, the Commission in the exercise of its reasonable discretion determines for purposes of the lodestar calculation under 14 DCMR § 3825.8(a) that the reasonable rate for the time of Ms. Russi is \$95 per hour, and the reasonable rate for Mr. Allen's time is \$345 per hour.

C. Lodestar Amounts

As previously noted *supra* at p. 5, the Commission's fee-setting inquiry starts with the "lodestar," which is the number of hours reasonably expended on a task multiplied by a reasonable hourly rate. 14 DCMR § 3825.8(a); see Sindram, RH-TP-07-29,094; Cascade Park Apartments, TP 26,197; Reid, TP 11,334. The table below shows the Commission's calculation of the lodestar amounts for student attorney Caitlin Russi, and Supervising Attorney Edward Allen, using the hours and hourly rates determined *supra* at pp. 6-11:

	HOURS EXPENDED	HOURLY RATE	LODESTAR
Caitlin Russi	18.71	\$95/hour	\$1,777.45
Edward Allen	6	\$345/hour	\$2,070.00

Pursuant to 14 DCMR § 3825.8(a), the Commission approves the following "lodestar" amount of fees: (1) for Student Attorney Caitlin Russi, \$1,777.45; and (2) for Supervising

Attorney Edward Allen, \$2,070.00. The total amount of the lodestar for Ms. Russi and Mr. Allen, collectively, is \$3,847.45.

D. Lodestar Adjustment Factors

The Commission may make adjustments to the “lodestar” amount upon consideration of the following factors:

- (1) the time and labor required;
- (2) the novelty, complexity, and difficulty of the legal issues or questions;
- (3) the skill requisite to perform the legal service properly;
- (4) the preclusion of other employment by the attorney, due to acceptance of the case;
- (5) the customary fee or prevailing rate in the community for attorneys with similar experience;
- (6) whether the fee is fixed or contingent;
- (7) time limitations imposed by the client or circumstances;
- (8) the amount involved and the results obtained;
- (9) the experience, reputation, and ability of the attorney;
- (10) the undesirability of the case;
- (11) the nature and length of the professional relationship with the client;
- (12) the award in similar cases; and
- (13) the results obtained, when the moving party did not prevail on all the issues.

14 DCMR § 3825.8(b).

Having calculated the lodestar amounts of the fees for Ms. Russi, and Mr. Allen, respectively, the Commission will proceed to consider whether any adjustments to the lodestar amounts are warranted under 14 DCMR § 3825.8(b). The Commission’s determination will be

based upon its review of the record, fee awards in other cases under the Acts, and its “past experience with attorney services in the rental housing area.” *See Kuratu*, RH-TP-07-28,985; *Avila*, RH-TP-28,799; *Hampton Courts Tenants’ Ass’n*, CI 20,176 at 8 - 9; *Reid*, TP 11,334 at 17.

(1) The time and labor required

This factor has been addressed by the Commission in its determination of an appropriate amount of hours expended by Ms. Russi and Mr. Allen in this case. *See supra* at 6-10.

(2) The novelty, complexity, and difficulty of the legal issues or questions

Based upon its review of the record, the Commission in its discretion does not regard the issues or questions addressed by Ms. Russi and Mr. Allen in this case to be of unusual or extraordinary novelty, complexity or difficulty – both in the context of practitioners in the specialized field of rent control and rental housing under the Act and in the context of typical actions brought under the provisions of the Act applicable to RH-TP-09-29,715.

(3) The skill requisite to perform the legal service properly

Based upon its review of the record, the Commission in its discretion does not regard the legal skill requisite of Ms. Russi and Mr. Allen to perform their service properly on behalf of the Tenant in this case to be necessarily enhanced or increased when compared to the customary skill level of other attorneys with experience in the representation of clients under the Act. While the Commission is satisfied that Ms. Russi and Mr. Allen performed the requisite litigation, research, evidentiary and argument skills in a very professional manner in the instant case, the Commission does not regard the required legal skills to warrant any adjustment of the lodestar amount.

(4) The preclusion of other employment by the attorney, due to acceptance of the case

The Commission recognizes the important public function and role that student attorneys from the UDC School of Law play in representing clients of low and moderate income in legal matters, where legal representation of such individuals would otherwise be wanting for a client's lack of financial resources. While the engagement of Ms. Russi and Mr. Allen in the instant case likely precluded them from accepting other cases, the Commission notes that any acceptance by the UDC School of Law of a particular case will necessarily preclude its student attorneys and Mr. Allen from representing eligible and worthy clients in other cases. Based upon its review of the record, and in its reasonable discretion, the Commission notes that this factor does not warrant any adjustment of the lodestar amount.

(5) The customary fee or prevailing rate in the community for attorneys with similar experience

This factor has been addressed by the Commission in its determination of the appropriate hourly rates for Ms. Russi and Mr. Allen in this case, *see supra* at 10-12. *See Kuratu*, RH-TP-07-28,985; *Avila*, RH-TP-28,799; *Hampton Courts Tenants' Ass'n*, CI 20,176 at 8 - 9; *Reid*, TP 11,334 at 17.

(6) Whether the fee is fixed or contingent

The Commission is not aware that either Ms. Russi or Mr. Allen uses a fee structure that involves fixed or contingent fees for legal services. As a result, the Commission does not consider this factor to be relevant, or to warrant any adjustment of the lodestar amount.

(7) Time limitations imposed by the client or circumstances

Based upon its review of the record, the Commission does not observe that unusual time limitations were imposed by either the Tenant or the circumstances in the prosecution of this case on behalf of the Tenant. While Ms. Russi and Mr. Allen appear to the Commission to have

timely carried out their representation of the Tenant, the Commission in its reasonable discretion does not consider this factor to warrant any adjustment of the lodestar amount.

(8) The amount involved and the results obtained (including results obtained, when the moving party did not prevail on all the issues)¹²

Based upon its review of the substantial evidence in the record, the Commission is not persuaded that the positive results that Ms. Russi and Mr. Allen achieved in this case were extraordinary under the Act; the Commission is satisfied that they were the ordinary and customary results and remedies under the Act arising from any successful representation of a client under similar circumstances to this case. While the Commission notes that the result of the Tenant's representation by Ms. Russi and Mr. Allen was of important value to the Tenant, the Commission in its reasonable discretion does not consider the results obtained to be of such an unusual or uncommon level of achievement to warrant any adjustment of the lodestar amount.

(9) The experience, reputation, and ability of the attorney

Based upon its review of the record, and in the exercise of its reasonable discretion, the Commission observes that the appropriate quality of the representation of the Tenant by Ms. Russi and Mr. Allen did not require or otherwise necessitate enhanced or unusual legal experience, reputation and abilities in the context of all attorneys who are customarily engaged in the representation of clients in similar cases in the specialized field of rent control under the Act. Thus, in the exercise of its reasonable discretion, the Commission determines that this factor does not warrant any adjustment of the lodestar amount. *See Hampton Courts Tenants' Ass'n*, 599 A.2d at 16-17; *Town Ctr. Mgmt. Corp.*, TP 23,538; *Hampton Courts Tenants' Ass'n*, CI

¹² The discussion regarding this factor also incorporates consideration of factor thirteen (13) under 14 DCMR § 3825.2(b).

20,176; *see also* Kuratu, RH-TP-07-28,985; Avila, RH-TP-28,799; Cascade Park Apartments, TP 26,197.

(10) The undesirability of the case

The Commission's review of the record indicates that one of the primary purposes of the applicable clinical program of the UDC School of Law is to provide students with the opportunity to represent lower income clients otherwise "undesirable" to private law firms because of an inability to pay private firm legal fees. The Commission observes that this appeal appears to meet the above purpose of the clinical program at UDC. Upon review of the record, and in the exercise of its reasonable discretion and its recognition of the above uncontested purpose of the applicable clinical program at UDC School of Law, the Commission determines that this appeal is not of such "undesirability" as to warrant adjustment of the lodestar amount of fees. *See, e.g.*, Kuratu, RH-TP-07-28,985; Avila, RH-TP-28,799.

(11) The nature and length of the professional relationship with the client

Based upon its review of the record, the nature of the professional, attorney-client relationship between the Tenant, and Ms. Russi and Mr. Allen, does not appear to the Commission to be unusual in length, difficulty or in substance in the context of attorneys ordinarily and customarily practicing before the Commission in the specialized field of rent control. *See* Hampton Courts Tenants' Ass'n, 599 A.2d at 16-17; Town Ctr. Mgmt. Corp., TP 23,538; Hampton Courts Tenants' Ass'n v. William C. Smith, Co., CI 20,176 (RHC July 20, 1990). Therefore, the Commission, in its discretion, does not consider this factor to warrant any adjustment of the lodestar amount.

(12) The award in similar cases

Based upon its review of the record in this case and extensive Commission case law, the Commission is satisfied that the award by the ALJ to the Tenant in this case was not so extraordinary or unusual to warrant any adjustment of the lodestar amount. *See, e.g., Kuratu*, RH-TP-07-28,985; *Avila*, RH-TP-28,799.

(13) The results obtained (when the moving party did not prevail on all the issues)

The discussion of this factor was incorporated in the Commission's consideration of factor eight (8) under 14 DCMR § 3825.2(b). *See supra* at 16.

The Commission has given careful consideration to each of the factors in 14 DCMR § 3825.2(b) with respect to the representation of the Tenant in this case by both Ms. Russi and Mr. Allen. The Commission's review of the record indicates that Ms. Russi and Mr. Allen provided the Tenant with a proper and appropriate quality of legal services. However, based upon its review of the record, the Commission in the exercise of its reasonable discretion does not deem their representation of the Tenant to warrant any adjustments to the lodestar amounts of their respective fees under 14 DCMR § 3825.2(b).

In light of the time and labor expended, the prevailing fee rates for attorneys with similar experience in the specialized field of rent control, and the Commission-determined reasonable reduction in hours claimed by the student attorney, the Commission in the exercise of its reasonable discretion grants the Tenant's request for attorneys' fees. The Commission thereby awards \$3,847.45 in attorney's fees to the Tenant for legal services performed before the Commission by Ms. Russi and Mr. Allen in this appeal. The award is the sum total of the following: (1) for Student Attorney Caitlin Russi, \$1,777.45; and (2) for Supervising Attorney Edward Allen, \$2,070.00.

IV. CONCLUSION

In accordance with the foregoing, the Commission awards \$3,847.45 in attorney's fees to the Tenant. D.C. OFFICIAL CODE § 42-3509.02; 14 DCMR § 3825.8; *see, e.g., Kuratu*, RH-TP-07-28,985; *Avila*, RH-TP-28,799.

SO ORDERED


PETER B. SZEGEDY-MASZAK, CHAIRMAN

MOTIONS FOR RECONSIDERATION

Pursuant to 14 DCMR § 3823 (2004), final decisions of the Commission are subject to reconsideration or modification. The Commission's rule, 14 DCMR § 3823.1 (2004), provides, "[a]ny party adversely affected by a decision of the Commission issued to dispose of the appeal may file a motion for reconsideration or modification with the Commission within ten (10) days of receipt of the decision."

JUDICIAL REVIEW

Pursuant to D.C. OFFICIAL CODE § 42-3502.19 (2001), "[a]ny person aggrieved by a decision of the Rental Housing Commission...may seek judicial review of the decision...by filing a petition for review in the District of Columbia Court of Appeals. Petitions for review of the Commission's decisions are filed in the District of Columbia Court of Appeals and are governed by Title III of the Rules of the District of Columbia Court of Appeals. The court may be contacted at the following address and telephone number:

D.C. Court of Appeals
Office of the Clerk
430 E. Street, N.W.
Washington, D.C. 20001
(202) 879-2700

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing **ORDER ON MOTION FOR ATTORNEYS' FEES** in RH-TP-09-29,715 was mailed, postage prepaid, by first class U.S. mail on this **22nd day of April, 2015** to:

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